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PATENT

Attorney Docket No. 1222.0034-00000

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JAN 23 1998

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:

David A. Russo et al.

Serial No.: 08/544,212

(Original Patent 5,401,305 issued

March 28, 1995, Original Serial

No. 104,125 filed December 13, 1993

Filed: October 17, 1995

For: COATING COMPOSITION  
FOR GLASS

Owner of Record: Elf Atochem North  
America, Inc.

11X1

GROUP 1100

Group Art Unit: 1108

Examiner: D. Brunsman

Assistant Commissioner for Patents  
Washington, D.C. 20231

11B  
12-2-97

Sir:

REQUEST TO WITHDRAW NOTICE OF ABANDONMENT

The November 18, 1997 communication from the Examiner included a Notice of Abandonment allegedly for applicants' failure to timely file a proper response to the office action mailed on March 3, 1997.

Applicants request withdrawal of the Notice of Abandonment, and call the Examiner's attention to the following in support of this request.

The Examiner rejected the application on July 1, 1996, which applicants responded to on November 27, 1996. Subsequently, on March 3, 1997, the Examiner issued a final rejection.

37 C.F.R. § 1.191 sets out the predicates for filing a Notice of Appeal to the Board of Patent Appeals and Interferences, by allowing such appeal where "any of the claims of . . . [the application] have been twice rejected or . . . given a final rejection. . . ."

Applicants therefore responded to the March 3, 1997 final rejection on August 29, 1997 by filing a Notice of Appeal, Petition for Extension of time and a check in the amount of \$1,230.00 in payment of the appeal and three months extension fees. Applicants attach copies of the foregoing and the Patent and Trademark Office postcard receipt acknowledging receipt thereof on August 29.

Applicants therefore properly responded to the March 3 Office Action within the statutory six month period, and had until October 29, 1997 to file a Brief on Appeal. The New Rules of Practice allow extensions of time of five months to file the Brief on Appeal, which now gives the applicants until March 29, 1998 to file the Brief.

In view of the foregoing, applicants respectfully submit that the application remains as a pending application and accordingly request that the Examiner withdraw the Notice of Abandonment.

Lastly, the Interview Summary included with the Examiner's November 18 communication shows that a Mr. Don Lepiane reviewed the Patent Office file of the present application and inquired as to its status. Mr. Lepiane is not an attorney or an associate with the applicants' attorneys firm nor does applicants' attorneys file contain any Power of Attorney or Power to Inspect the file. Accordingly, applicants' attorneys request that the Examiner identify Mr. Lepiane because of the foregoing and also

because the official correspondence from the Patent Office does not identify Mr. Lepiane as a member of the Examining Corps.

If filing this request requires an extension of time pursuant to 37 C.F.R. § 1.136 and payment of an extension fee or other fee, any of which this response fails to account for, applicants' attorneys request such an extension and/or charging such fee(s) to their Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

By:

  
Robert J. Eichelburg  
Reg. No. 23,057

Dated: January 21, 1998